THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.2107 OF 2006

DATED 03rd FEBRUARY, 2006

BETWEEN

Yelle Lakshminarayana and others

… Petitioners

and

The District Collector, Karimnagar and others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.2107 OF 2006

ORDER:

The two petitioners were elected as Members of Municipal Council, Sircilla Municipality. They admittedly belong to minority group in the council i.e., Congress (I) Party. They allege that the chair person belonging to Telugu Desam Party issued a notice of meeting to be held on 30.12.2005 at 10.00 a.m., in the council hall. On that day, councillors belonging to the Telugu Desam Party proposed to place the seat of the vice-chairman by the side of the seat of the chair person. This is opposed by the minority Congress (I) group. Though thirty-seven items of agenda were placed before the council for discussion and resolutions, the meeting was closed within five minutes resolving on all the thirty-seven items. The approval of members was obtained in the chambers of the chair person and decisions were allegedly taken as per the whims and fancies of the chair person. All the councillors belonging to Congress issued a letter of dissent on 13.12.2005 to respondents 1 and 2, but the same was not recorded and no action was taken thereon. Therefore, they filed the present writ petition seeking a writ of mandamus declaring the action of the respondents 3 and 4 in not placing the agenda for discussion before the general body as illegal and arbitrary, and for a consequential declaration that the resolution dated 30.12.2005 is arbitrary and illegal.

The learned counsel for the petitioners contends that if only an opportunity

was given to the councillors in the meeting, they could have raised objections on all the agenda items. He also referred to certain subjects in the agenda by making reference to paragraph six of the affidavit accompanying the writ petition, in support of the contention that Municipal Council passed resolutions for incurring expenditure on certain false bills. According to the learned counsel, when once any councillor gives letter of dissent, it has to be placed on record and if any contravention of this rule would vitiate the action of the Municipal Council in passing resolutions.

In spite of repeated queries from the Court, the learned counsel for the petitioners has not placed before this Court any provision in A.P.Municipalities Act, 1965 (for short, the Act) or Municipal Council Meeting Rules in support of the submission that each and every dissent should be recorded in the minutes book of the Municipal Council. Even assuming that there is a requirement of recording the dissent, the contravention of such rule does not violate the principle of democracy in the local body, especially when admittedly the resolutions were passed on 30.12.2005 with a majority supporting them. Further more, Sections 59 and 71 of the Act confer powers on the Government and the District Collector respectively to suspend a resolution in certain limited circumstances. The petitioners can as well avail these remedies, in which event alone, a resolution passed by the Municipality can be annulled. Curiously, though there are seven councilors belonging to Congress (I) Party, three to Bharatiya Janata Party, one to Telangana Rashtra Samithi and three independents, no such objection has been so far raised by anybody, except these two petitioners. There is certainly something, which does not meet the eye.

The writ petition is misconceived and is accordingly dismissed at the admission stage. No costs.

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(V.V.S.RAO,J)

03.02.2006

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